

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 161 – HB 126

April 18, 2017

**SUMMARY OF ORIGINAL BILL:** Enacts the Opportunity Scholarship Pilot Program. Limits the program to eligible students in all local education agencies (LEAs) that have at least 30 schools in the bottom five percent of overall achievement. Authorizes eligible students to apply for and receive scholarships to attend participating non-public schools. Requires students to meet certain eligibility requirements including, but not limited to, being zoned for or currently attending a school that is identified as being in the bottom five percent of schools in overall achievement data and meeting certain age and income requirements. Requires non-public schools to provide annual notice to the Department of Education (DOE) of their intent to participate and to comply with all other participation requirements.

Requires the DOE to administer the program, and sets forth specific departmental administrative tasks including, but not limited to, providing annual notice of students' eligibility to parents; determining and approving initial and continuing eligibility for participating schools; and remitting scholarship payments to participating schools. Authorizes scholarship students to enroll in another participating school without loss of eligibility, if a participating school is deemed ineligible. Sets forth the procedures that shall be followed if the number of eligible students exceeds the number of scholarships awarded at a specific school for a specific grade level, and if there are scholarships available after all possible matches have been made between participating schools and eligible students.

Requires the annual scholarship amount to be the lesser of the participating school's annual tuition and fees or the amount of the required state and local Basic Education Program (BEP) funding per pupil. Requires students receiving the scholarship to continue to be counted toward the average daily membership (ADM) of the local education agency (LEA). Requires LEAs to continue to fund their portion of the required BEP per pupil expenditure (PPE) for participating students. Authorizes LEAs to retain any local funding above and beyond the BEP local match requirement. Requires any remaining funds to be retained by the DOE and the LEA, with specific amounts based on the LEA's state and local BEP funding share division, if a participating school's tuition and fees are less than the required state and local BEP per pupil expenditure (PPE).

Requires the DOE to apply for use of federal funds in accordance with federal law in the event that funds are made available.

Caps the statewide scholarship program for LEAs with a school that is in the bottom five percent of achievement at 5,000 scholarships for FY17-18; 7,500 scholarships in FY18-19; and 10,000 scholarships in FY19-20; and 20,000 scholarships in FY20-21 and subsequent fiscal years.

## FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – Exceeds \$330,400/FY17-18  
\$230,400/FY18-19 and Subsequent Years

Other Fiscal Impact – For local education agencies that have schools in the bottom five percent of achievement and are mandated to participate in the statewide scholarship program, the shift of state and required local BEP funding from these local education agencies to the non-public participating schools is estimated as follows: \$8,867,500 in FY17-18; \$13,633,100 in FY18-19; \$18,632,500 in FY19-20; and an amount exceeding \$18,632,500 in FY20-21 and subsequent years.

**SUMMARY OF AMENDMENTS (005754, 006474):** Amendment 005754 deletes and rewrites the bill such that the substantive changes are as follows:

- (1) to limit the pilot to five years starting in the 2018 academic year;
- (2) to limit the pilot program to the LEA with the most schools in the bottom 5 percent of overall achievement;
- (3) to require the Office of Research and Education Accountability (OREA) under the Comptroller of the Treasury (COT) to provide a detailed report on the pilot program on a bi-annual basis as well as at the end of the pilot program;
- (4) to include schools within the Achievement School District (ASD) within the geographic footprint of each LEA as in the LEA for the purpose of counting schools in the bottom five percent;
- (5) to provide the DOE with discretion on whether participating schools must submit a financial audit;
- (6) to require LEAs to notify the DOE with names of parents of students eligible for the pilot program;
- (7) to authorize participating students to continue beyond the end of the pilot program as scholarship students;
- (8) to exclude students in the IEA program;
- (9) to change the proposed enrollment caps as follows: for LEAs with a school that is in the bottom five percent of achievement at 2,500 scholarships for FY18-19; 5,000 scholarships in FY19-20 and subsequent years.

Amendment 006474 deletes and replaces language of the legislation as amended by amendment 005754 to administer the requisite assessment test only to students in grades 3-10; and requires a report from the Comptroller of the Treasury's (COT's) Office of Research and Education Accountability to publish an annual report on student progress.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:**

**Increase State Expenditures – Exceeds \$330,400/FY18-19**

**\$230,400/Each FY19-20 through FY22-23**

**Other Fiscal Impact – For local education agencies that have schools in the bottom five percent of achievement and are mandated to participate in the statewide scholarship program, the shift of state and required local BEP funding from these local education agencies to the non-public participating schools is estimated as follows: \$4,544,400 in FY18-19; \$9,316,300 in FY19-20; \$9,548,800 in FY20-21; and an amount estimated to exceed \$9,548,800 in each FY21-22 and FY22-23.**

**To the extent participating schools use an assessment tool other than the Tennessee Comprehensive Assessment Program (TCAP) assessment, there will be a recurring increase in state expenditures estimated to be \$135,000.**

Assumptions for the bill as amended:

- The DOE will require two new positions to administer the program beginning in FY18-19. One position will require a salary of \$80,124 with benefits of \$20,219; a total of \$100,343. One position will require a salary of \$67,008 with benefits of \$18,043; a total of \$85,051.
- The total increase in state expenditures for personnel is estimated to be \$185,394 (\$100,343 + \$85,051).
- Pursuant to § 49-1-1205 of the proposed bill as amended, the DOE shall notify parents of student eligibility and participating schools. Though the exact number of eligible students is unknown; based on information from the DOE, it is estimated that the Department will notify at least 65,000 students annually of the pilot program.
- Based on information from DOE, the increase in state expenditures to notify eligible students and participating schools through mailings and brochures is estimated to be \$45,000.
- Based on information from the DOE, the Department will require a new online portal system for receiving and processing student applications. The Department confirms a third-party contract vendor will be required to develop the new portal system. Though the exact cost for developing such system is unknown; the one-time increase in state expenditures for software development is estimated to exceed \$100,000. Such expenses will be incurred in FY18-19.
- The total increase in state expenditures in FY18-19 is estimated to exceed \$330,394 (\$185,394 + \$45,000 + \$100,000).
- Given the pilot program for the bill as amended sunsets after 5 years, the increase in state expenditures is estimated to be \$230,394 (\$185,394 + \$45,000) in each FY19-20 through FY22-23. It is assumed these expenditures will no longer be required after the five-year life of the proposed pilot project.

Assumptions relative to enrollment, scholarship amounts, and program estimates:

- The scholarship pilot program will begin in the fall semester of 2018.
- Based on information from DOE, as well as a map of ASD schools, Shelby County Schools will be the sole location of the pilot program based on the achievement scores of all LEAs in FY15-16.
- Though the exact number of annually participating students is unknown, it is reasonably estimated that a minimum of 25 percent of the student cap for the pilot program will be filled.
- The FY18-19 per pupil expenditure amount is assumed to be \$7,271.
- For the purposes of this fiscal note, the required state and local BEP expenditures are utilized as the scholarship amount with an estimated scholarship growth of 2.5 percent annually.
- Statewide Program Student Enrollment Estimates:
  - In FY18-19, an estimated 625 students will participate.
  - In each FY19-20 through FY22-23, an estimated 1,250 students will participate.
- Statewide Program Scholarship Estimates:
  - In FY18-19, the scholarship is estimated to be \$7,271 per pupil.
  - In FY19-20, the scholarship is estimated to be \$7,453 ( $\$7,271 \times 1.025$ ) per pupil.
  - In FY20-21, the scholarship is estimated to be \$7,639 ( $\$7,453 \times 1.025$ ) per pupil.
  - In FY21-22 and FY22-23, the scholarship is estimated to exceed \$7,639 per pupil.
- Total Statewide Program Estimates:
  - In FY18-19, an estimated \$4,544,375 ( $\$7,271 \times 625$  students) will shift from LEAs to participating schools.
  - In FY19-20, an estimated \$9,316,250 ( $\$7,453 \times 1,250$  students) will shift from LEAs to participating schools.
  - In FY20-21, an estimated \$9,548,750 ( $\$7,639 \times 1,250$  students) will shift from LEAs to participating schools.
  - In each FY21-22 through FY22-23, an amount estimated to exceed \$9,548,750 will shift from LEAs to participating schools.

Assumptions for OREA report:

- Based on information provided by the COT, OREA does not currently have the ability to complete the report required by the legislation as amended if participating schools choose to administer norm-referenced assessments instead of the state required assessments for public schools.
- Based on information from the COT, the COT would instead seek to contract with testing specialists in a university or other research organization with the technical skills to develop an approach to allow comparisons of norm-referenced tests to state required tests.
- The recurring increase in state expenditures from contracting with testing specialists in a research organization or university in the event that the above scenario happens is estimated to be \$135,000.

Assumptions relative to LEA fund retention:

- The BEP maintenance of effort requires that local government continue to fund their LEA at the same level year-to-year unless there is a decrease in enrollment.
- Participating students will continue to be counted in LEA enrollment numbers, and LEAs will be required to continue providing funding based on the enrollment numbers that include participating students.
- A majority of LEAs are currently funding their students above and beyond the BEP local match requirement. This amount varies widely by LEA, but according to DOE, the average amount that LEAs will retain in FY17-18 is \$1,279 per pupil. This amount is estimated to increase at an average growth rate of 2.5 percent annually in each subsequent year.
- Each year, students leave and enter LEAs. As a result, LEAs adjust expenditures, teachers, facilities, and other items to meet the change in student population.
- LEAs will be able to use retained funding to offset any increase in local government expenditures or to use at their discretion for some other purpose.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/maf